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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,873	09/12/2003	Michael Alex	KOM004-2C US	8666

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EXAMINER

DAVIDSON, DAN

ART UNIT	PAPER NUMBER
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2651

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,873

Applicant(s)

ALEX, MICHAEL

Examiner

Dan I. Davidson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,33-67,70,71,77,78 and 83-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,33-57,61-65,70,71,77,83-85 and 87-91 is/are allowed.
- 6) ☒ Claim(s) 58-60,66,67 and 78 is/are rejected.
- 7) ☒ Claim(s) 1, 86 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. The amendment filed July 3, 2005 has been received and has been made of record. An Office Action in response to the above amendment follows.

2. Claim 1 is objected to because of the following informality:

(1) In claim 1, line 8, "value" should be deleted since it is inconsistent with the terminology (i.e. "refresh indicator") used later in the claim and in claims dependent on claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 58-60 and 66-67 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 58 and 66 are drawn to a carrier signal embedded with computer instructions. According to the interim guidelines proposed by the USPTO, signal claims are considered non-statutory functional descriptive material since they do not fall within any of the four statutory classes of § 101.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 58-60 and 66-67 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter

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which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 58, the specification does not provide that a single carrier signal is embedded with computer instructions for writing data to a magnetic medium and also includes a refresh indicator. Regarding claim 66, the specification does not provide a single carrier signal embedded with computer instructions for writing data to a magnetic medium, automatically reading the data, and writing the data back to the magnetic medium.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 58-60 and 66-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims are rejected as being indefinite since the limitations at claims 58 and 66 are not supported by the specification as discussed above and thus cannot be understood as written in the claims.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claim 78 is rejected under 35 U.S.C. 102(e) as being anticipated by Ito (US 5,923,485 A).

Re claim 78; Ito discloses a method for storing information on a magnetic disk (col. 6, lines 16-18), the method comprising: writing the information to the magnetic disk (col. 6, lines 16-18), at least a portion of the information being written to a group of grains in a track at a density sufficiently high to cause a change in direction of magnetization of at least some of the grains with passage of a year (col. 7, lines 22-28; Fig. 7; weakening of the recorded magnetization given no operation conducted by the host side is inherently a result of a change in direction of magnetization of at least some of the grains); and automatically refreshing at least the portion of information, using a refresh indicator, wherein the refresh indicator satisfies a predetermined condition (col. 9, lines 5-13; "predetermined condition" is either timing or amplitude).

Allowable Subject Matter

10. Claims 1, 33-57, 61-65, 70, 77, 83-85, 87, and 89-91 are allowed over the prior art of record for the reasons provided in the previous Office Action mailed April 11, 2005.

11. Claims 71 and 88 are allowed over the prior art of record, and in particular Ito (US 5,923,485 A), because of the limitation in claim 71 drawn to the transition in polarity between neighboring magnetized portions.

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12. Claim 86 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Re claim 86; the prior art of record, and in particular Ito (US 5,923,485 A), fails to teach or suggest that the refresh indicator is stored on the magnetic disk at a lower density than the portion of the information.

Conclusion

13. Since this Office Action contains new rejections not necessitated by Applicant's amendment, this Action will not be final.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan I. Davidson whose telephone number is (571) 272-7552. The examiner can normally be reached on Monday-Thursday from 8:30AM to 2:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth, can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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DID

Dan I Davidson
November 14, 2005



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SUPERVISORY PATENT EXAMINER
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